

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

IN RE: ORTHO EVRA PRODUCTS  
LIABILITY LITIGATION

N.D. OHIO Case No. 1:06-40000

MDL Docket No. 1742

This Document Relates To:

ALL CASES.

**THIRD AMENDED  
CASE MANAGEMENT ORDER NO. 9  
(AMENDING SECOND AMENDED CMO  
NO. 9 AND CMO 9A REGARDING  
COMMON BENEFIT FEES AND  
EXPENSES)**

On September 19, 2006, this Court entered Second Amended CMO 9 (Document No. 50.) establishing that an MDL assessment be applied to all cases that resolve. Those cases in which counsel agreed to the MDL assessment within 60 days of the date of the Order, or in which counsel agreed to the MDL assessment within 30 days of the date of receipt of an MDL docket number, were subject to a 3% MDL assessment (1½% as fees and 1½% as costs). (Id. at pp. 4-5.) Other cases in which their counsel failed to agree to the MDL assessment within the time periods described above were subject to a 5% MDL assessment (3% as fees and 2% as costs). (Id. at p.6.)

To date, a substantial amount of work has been done by Lead Counsel for Plaintiffs, the Plaintiffs' Executive Committee, and the Plaintiffs' Steering Committee. The vast majority of cases considered "pre-label change" cases by Defendants, have either resolved or been dismissed.

Having been advised that significant work is anticipated for the "post label change" cases, as well as any other "pre label change" cases that may be filed or transferred in the future, and in order to provide for the fair and equitable sharing among the remaining plaintiffs of the costs of services performed and expenses incurred by attorneys acting for MDL administration

and common benefit of all plaintiffs in this complex litigation going forward, it is hereby ORDERED as follows:

Second Amended Case Management Order No. 9 is further amended such that the 3% assessment is increased to 6% (4% as fees and 2% as expenses). This Order applies to **ALL** cases pending in the MDL and any newly filed or transferred cases. With regard to any newly filed cases or transferred cases, in which counsel fails to sign the MDL assessment agreement within the applicable time period specified in CMO 9, the 5% MDL assessment shall be increased to a 8% MDL assessment (6% for fees and 2% for expenses).

All other provisions of Second Amended CMO 9 and CMO 9A shall remain unchanged.

**IT IS SO ORDERED.**

Date: July 23 2009

*s/ David A. Katz*

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DAVID A. KATZ  
U.S. DISTRICT JUDGE